IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA:

RFA.No.119 of 1999.

Date of Decision :24.8.2007.

State of H.P. ….Appellant.

Versus:

Mohi Ramd and others. …Respondents.

Coram:

The Hon'ble Mr.Justice Sanjay Karol, Judge.

Whether approved for reporting?[1]

For the appellant: Mr.Ashok Chaudhary, Addl. Advocate General.

For Respondents. Mr.Rakesh Dhaulta, vice Mr.D.N.Ronta. Advocate.

Sanjay Karol, J (Oral).

The appellant has assailed the award dated 21st July, 1998 passed by Additional District Judge in Land Reference No.27-4/4 of 1988/97.

For the purpose of convenience, appellant herein is referred to as the `defendant' and the respondents' herein are referred to as the 'petitioners'.

Petitioners' land measuring 14 biswas comprising khasra No.246/1 situate in village Kolvi, Pargana Ubadesh, Tehsil Kotkhai, District Shimla, H.P., was sought to be acquired

---

[1] **Whether reporters of Local Papers may be allowed to see the judgment?**

vide Notification under Section 4 of the Land Acquisition Act, 1984 (hereinafter referred to as `the Act') published on 3rd January, 1987. The acquisition proceedings were concluded in terms of award dated 30th March, 1988 passed by the Land Acquisition Collector.

Aggrieved by the same, petitioners made land reference under Section 18 of the Act which was decided in terms of the impugned award. Assessment of compensation payable with regard to the standing trees on the acquired land was carried out in accordance with the formula known as "Harbans Singh Formula". The Collector's award was assailed on the ground that the assessment was not carried out in accordance with the market value but, in fact, the same has been assessed on the basis of the price index prevalent to the year 1966 which is evident from 'Harbans Singh Formula'. Relying upon the statements of the parties as also the material on record, the Collector enhanced the compensation payable to the petitioners, in relation to trees, to a sum of Rs.44,450/- along with all statutory benefits thereupon.

Mohi Ram (PW-1), T.R.Middha (PW-2), Meean Shankhyan (PW-3), Mohi Ram (PW-4), Jagdish (PW-5), Jeet Singh (PW-6) and Daulat Ram (PW-7) have unanimously supported the case of the petitioners-owners with regard to its entitlement on the basis of 'Harbans Singh Formula'. PW-1 and

PW-4 have deposed that the assessment has been carried out on the basis of the price index as prevalent in the year 1966.

The Court below relying upon the ratio of law laid down by this Court in Civil suit No. 98 of 1988 titled as Vijoti Devi vs. State of H.P. has held that the compensation payable to the petitioners has to be determined on the basis of the annual yield. Since there was no sale transaction available on record, therefore, the court below proceeded to determine the market value on the basis of annual yield and applied the multiplier of 8 years to determine the compensation. From the statements of the witnesses, it is clear that the yield from the trees was approximately 60 to 70 boxes per year and the sale price prevalent was Rs. 200/- to Rs.250/-. Therefore, the annual net loss caused to the petitioners determined to be Rs. 7,500/- per annum. By applying the multiplier of 8, and taking the yield to be 30 boxes and price at Rs.250/- the court below determined the total yield to be Rs.60,000/-. But by applying the principle of deduction by 25% came to the figure of Rs.45,000/- After deducting the amount already paid to the petitioners and applying all statutory benefits, the Court found the petitioners entitled to enhanced compensation to the amount of Rs.44,450/-.

Having gone through the material on record including the statement of the parties, the documents duly exhibited and also reasoning given by the learned District Judge,

I see no reason to interfere with the impugned award. In my view, the amount determined by the court below is fair market value of the amount payable to the land owners as compensation for acquisition of its land and also the trees which were fruit bearing. Needless to add that the petitioners shall be entitled to all statutory benefits on the enhanced amount of compensation so determined by the court below. The appeal is accordingly dismissed.

(**Sanjay Karol),**
Judge.

August 24, 2007(R)